

## **VIRGINIA DEPARTMENT FOR THE AGING**

### **CONTRACT FOR TITLES III AND VII, OLDER AMERICANS ACT CARE COORDINATION FOR ELDERLY VIRGINIANS RESPITE CARE INITIATIVE PROGRAM**

This Contract entered into by «ContractName», hereinafter called the "Area Agency" and the Commonwealth of Virginia, Department for the Aging, hereinafter called the "State Agency" for support of activities conducted under Titles III and VII of the Older Americans Act of 1965, as amended (OAA), the Care Coordination for Elderly Virginians Program and the Respite Care Initiative Program. The Area Agency agrees to administer this Contract in accordance with the OAA, Administration on Aging (AoA) regulations at 45 CFR Part 1321, requirements issued in AoA Program Instructions, and regulations and requirements established by the State Agency, and the terms of this Contract.

**WITNESSETH** that the Area Agency and the State Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

**SCOPE OF SERVICES:** The Area Agency shall provide the services to the State Agency as set forth in the Contract Documents, under the terms of payment established in the Summary of Obligations provided herewith.

**PERIOD OF PERFORMANCE:** From October 1, 2007 through September 30, 2008.

**THE CONTRACT DOCUMENTS** shall consist of:

1. This signed form;
2. Summary of Obligations;
3. Area Agency's Area Plan for Aging Services (Area Plan) approved by the State Agency;

All of which documents are incorporated by reference as if expressly set forth herein.

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**Insert Summary of Obligations Page – Federal Funds**

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**Insert Summary of Obligations Page – State General Funds**

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**1. TITLES III AND VII, OLDER AMERICANS ACT PROGRAM  
PURPOSE AND REQUIREMENTS**

The Area Agency understands and agrees that the purpose of the Titles III and VII, Older Americans Act (Section 301(a)(1)), is to concentrate resources in order to develop greater capacity and foster the development and implementation of a comprehensive and coordinated system to serve older individuals within the designated planning and service area; for the planning, and for the provision of, supportive services; and multipurpose senior centers, in order to:

- 1) Secure and maintain maximum independence and dignity in a home environment for older persons capable of self care with appropriate supportive services;
- 2) Remove individual and social barriers to economic and personal independence for older persons;
- 3) Provide a continuum of care for the vulnerable elderly; and
- 4) Secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

The Area Agency further understands and agrees that, in order to achieve the purpose of the Titles III and VII of the Older Americans Act, the resources made available to the Area Agency by the State Agency are designed to:

- 1) Assist the Area Agency to develop and implement, in conjunction with other planners and service providers and older consumers of services, an Area Plan that establishes specific program objectives and priorities for meeting the needs of the elderly that assure preference shall be given to providing services to persons with the greatest economic or social needs, with particular attention to low-income minority persons and older individuals residing in rural areas;
- 2) Increase the Area Agency's capability to develop and implement action programs designed to coordinate existing social services systems in order to make such systems more effective, efficient, and responsive in meeting the needs of the elderly;
- 3) Draw increasing commitments from public and private agencies with resources that can serve older persons, and encourage such agencies to enter into cooperative arrangements directed toward maximum utilization of existing resources on behalf of older persons;
- 4) Make existing social services more accessible to older persons in need through developing support services such as transportation, information and

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assistance and public information, which can increase the ability of older persons, including the older physically and mentally disabled, to maintain their independence; and

- 5) Promote comprehensive services for the elderly through the development and support of social services that are needed by older persons but are not otherwise available.

**2. AREA AGENCY ORGANIZATION AND ADMINISTRATION UNDER  
TITLES III AND VII, OLDER AMERICANS ACT**

The Area Agency agrees to carry out Title III and Title VII, Older Americans Act programs according to the following requirements:

- 2.1 AUTHORITY AND CAPACITY:** The Area Agency represents that it has the authority and capacity to administer this Contract to carry out, directly or through subcontracts or other arrangements, a program pursuant to this Contract within the planning and service area.
- 2.2 ORGANIZATION:** When the Area Agency is part of a multipurpose agency, the State Agency shall designate a separate organizational unit that functions only for purposes of serving as the area agency on aging. Delegation of authority and responsibility as the Area Agency to a separate organization unit does not relieve the governing board of the multipurpose agency of accountability for performance of this Contract.
- 2.3 STAFFING:** The Area Agency shall be headed by an individual qualified by education or experience and assigned full-time solely to overall administration and management of the Area Agency, including development and implementation of the Area Plan. Adequate number of qualified staff, including members of minority groups, older Americans, and persons with disabilities who are otherwise qualified, shall be assigned to the Area Agency to ensure the effective conduct of responsibilities under this Contract.

The Area Agency, in all solicitations or advertisements for employment placed by or on behalf of the Area Agency, shall state that the Area Agency is an equal opportunity employer. Such notices placed in accordance with federal law, rule, or regulation shall be sufficient to meet the requirements of this Contract. The Area Agency shall include the provisions of this paragraph in every subcontract or purchase order of over Ten Thousand (\$10,000.00) Dollars, so that such provisions shall be binding upon each subcontractor or vendor. In this regard, the Area Agency shall observe all requirements specifically set out in the terms of

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"Compliance with Applicable Laws, Regulations and Guidelines," at Section 2.10 below.

- 2.4 PERSONNEL:** The Area Agency shall have written policies and procedures, approved by the governing board, for personnel administration. The Area Agency agrees to be fully responsible for the acts and omissions of its agents and/or employees committed within the scope of their employment.

If the Area Agency is a public agency, it shall develop and implement methods of personnel administration which are consistent with the standards for a Merit System of Personnel Administration and any standards prescribed by the U.S. Civil Service Commission pursuant to the most recent applicable provisions of the Intergovernmental Personnel Act of 1970, (5 CFR Part 900, Subpart F) including all modifications or superseding amendments of such standards, or standards required under Virginia statutes and policies.

If the Area Agency is a private agency, it shall develop and implement methods of personnel administration that are reasonably consistent with the above standards.

Documentation of methods used to comply with this section shall be maintained in the files of the Area Agency and shall be made available to the State Agency upon request.

- 2.5 TRAININGS, WORKSHOPS, AND MEETINGS:** The Area Agency is responsible for determining and providing the proper training to Area Agency staff (including staff employed by its subcontractors) necessary to implement the Area Plan.

The State Agency and the AoA will provide additional opportunities for trainings, workshops, conference calls, and meetings. Generally, attendance by appropriate Area Agency staff is optional, but strongly encouraged. However, the State Agency reserves the right, while giving reasonable notice, to require individuals having appropriate responsibilities under the Area Plan to attend the training, workshop, conference call or meeting.

- 2.6 SUBCONTRACTS/SUBGRANTS:** The Area Agency understands and agrees that, after the State Agency approves the Area Plan, although subcontracts and subgrants may be made by the Area Agency, such subcontracts and subgrants shall be subject to State Agency regulations at 22VAC5-20-330 and the Virginia Department for the Aging, Area Agency on Aging Minimum Best Practice Procurement Guidelines. The funds awarded to support this Contract are awarded on an annual basis,

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subject to availability of federal and state general funds and satisfactory performance of the Area Agency.

- 2.7 PUBLIC PARTICIPATION:** The Area Agency shall develop and implement procedures for obtaining input from older persons, officials of local government, the general public, and other interested parties in the planning and service area on the needs of older persons and on the Area Plan. The Area Agency shall give adequate public notice prior to the conduct of any public hearing conducted for this purpose.
- 2.8 ADVISORY COUNCIL:** The Area Agency shall establish an Advisory Council to carry out advisory functions that further the Area Agency's mission of developing and coordinating community-based systems of services for all older persons in the planning and service area. The Advisory Council's functions and membership composition shall meet the requirements at 45 CFR Part 1321.57. The Advisory Council shall meet at least quarterly, and shall record minutes of each of the meetings.
- 2.9 COORDINATION WITH OTHER PROGRAMS:** In carrying out its responsibilities for the development of a comprehensive and coordinated system, the Area Agency shall establish effective and efficient procedures for coordinating the programs under the Area Plan with the most recent applicable provisions of the following programs referenced in Section 203(b) of the Older Americans Act, as amended:
- 1) The Job Training Partnership Act or Title I of the Workforce Investment Act of 1998;
  - 2) Title II of the Domestic Volunteer Service Act of 1973 (Retired and Senior Volunteer Program, Foster Grandparents Program, Senior Companion Program);
  - 3) Titles XVI (Supplemental Security Income), XVIII (Medicare), XIX (Medical Assistance Program), and XX (Social Services Programs for Individuals and Families) of the Social Security Act;
  - 4) Sections 231 (Mortgage Insurance-Rental Housing for the Elderly) and 232 (Mortgage Insurance-Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities) of the National Housing Act;
  - 5) United States Housing Act of 1937;
  - 6) Section 202 (Supportive Housing for the Elderly) of the Housing Act of 1959;

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- 7) Title I (Community Development Block Grants) of the Housing and Community Development Act of 1974;
- 8) Title I of the Higher Education Act of 1965 and the Adult Education Act and the Family Literacy Act of 1998;
- 9) Sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964;
- 10) Public Health Service Act, including block grants under Title XIX of such Act;
- 11) Low-Income Home Energy Assistance Act of 1981;
- 12) Part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons;
- 13) Community Services Block Grant Act;
- 14) Demographic statistics and analysis programs conducted by the Bureau of the Census under Title 13, United States Code;
- 15) Veterans' Benefits Parts II and III of Title 38, United States Code;
- 16) Rehabilitation Act of 1973;
- 17) Developmental Disabilities Assistance and Bill of Rights Act of 2000;
- 18) Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750-3766B);
- 19) Sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004);
- 20) Housing for Older Persons Act of 1995; and
- 21) Americans with Disabilities Act of 1990.

**2.10 COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND GUIDELINES:**

- 2.10.1** The Area Agency and any subcontractors shall abide by and comply with all applicable federal, state and local laws, regulations, State Agency service standards and guidelines. The Area Agency



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also understands and agrees to immediately desist from and correct any violations noted.

- 2.10.2** The Area Agency shall comply with applicable provisions of Titles VI, VII and IX of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto. The Area Agency further certifies that it has no commitments or obligations which are inconsistent with compliance with these and any other pertinent federal regulations and policies, and that any other agency, organization, or party which participates in the implementation of Title III and Title VII of the Older Americans Act, as amended shall have no such commitments or obligations.
- 2.10.3** The Area Agency shall comply with applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable regulation (45 CFR Part 84), and all guidelines and interpretations issued pursuant thereto.
- 2.10.4** In accordance with the Virginia Fair Employment Contracting Act, §2.2-4200 et seq. of the *Code of Virginia*, the Area Agency shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, national origin, disabilities, or any other basis prohibited by state law relating to employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Area Agency. The Area Agency agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
- 2.10.5** The Area Agency shall conform to the Virginia Freedom of Information Act, §2.2-3700 et seq. of the *Code of Virginia* to the extent required by federal and state law, consistent with the confidentiality requirements of the Older Americans Act and §2.2-706 of the *Code of Virginia*.
- 2.10.6** To the extent applicable the provisions of the following Acts and applicable regulations pursuant to said Acts, are hereby incorporated by reference. Amendments to said Acts and regulations are automatically incorporated into this Contract.
- 2.10.6.1** Titles III and VII of the Older Americans Act, as amended.
- 2.10.6.2** Title III regulations officially known as U.S. Department of Health and Human Services, Grants to State and Community Programs on Aging, at 45 CFR Part 1321, including subsequent revisions or amendments.

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**2.10.6.3** U.S. Department of Health and Human Services,  
Administration of Grants, at 45 CFR Part 74 and 45 CFR  
Part 92.

**2.10.6.4** Department for the Aging, Section 2.2-700, et seq., of the  
*Code of Virginia*.

**2.10.6.5** Virginia Administrative Code 22VAC5-20-10 et seq.,  
Grants to Area Agencies on Aging.

**2.11 PROGRAM REQUIREMENTS AND SERVICE STANDARDS:** In this document, all references to Service Standards are defined as the Virginia Department for the Aging Service Standards. The State Agency has developed Service Standards for Area Plan activities funded by this contract. The services standards include but are not limited to: Adult Day Care, Assisted Transportation, Care Coordination, Checking, Chore, Congregate Nutrition, Disease Prevention and Health Promotion, Elder Abuse Prevention, Emergency, Employment, Health Education Screening, Home Delivered Meals, Home Health, Homemaker Service, I.D. Discount, Information and Referral / Assistance, Legal Assistance, Long-Term Care Coordinating Activities, Money Management, Personal Care, Preparation and Administration of the Area Plan, Public Information / Education, Residential Repair and Renovation, Socialization and Recreation, Transportation, and Volunteer.

The Area Agency will comply with the requirements of the Title III-D Medication Management Interim Guidelines – March 2001; and the Title III-E National Family Caregiver Support Program Guidance Document.

The State Agency shall make these documents available on its website at [www.vda.virginia.gov](http://www.vda.virginia.gov).

Area Agency subcontracts expending funds pursuant to this Contract must state, "The subcontractor must adhere to the requirements established in the appropriate Virginia Department for the Aging Service Standard."

**2.12 SERVICE DELIVERY PRIORITIES:** The Area Agency shall give priority in service delivery to persons aged sixty (60) and over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated who are unable otherwise to afford or obtain such services. The Area Agency shall give preference to providing services to older persons with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas. Notwithstanding

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the foregoing, certain state-funded programs shall be provided to all persons in need of such services on a sliding fee schedule basis.

- 2.13 VOLUNTARY CONTRIBUTIONS:** Voluntary contributions shall be allowed and may be solicited for all Older American Act services if the method of solicitation is noncoercive. Contributions shall be encouraged for individuals whose self-declared income is at or above one hundred eighty-five (185%) percent of the poverty line. The Area Agency assures that it and any other service provider shall:

**2.13.1** Provide each recipient an opportunity to voluntarily contribute to the cost of the service;

**2.13.2** Clearly inform each recipient that there is no obligation to contribution and that the contribution is purely voluntary;

**2.13.3** Protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution;

**2.13.4** Establish appropriate procedures to safeguard and account for all contributions; and

**2.13.5** Use all collected contributions to expand the service for which the contributions were given.

The Area Agency shall consult with the Advisory Council regarding any schedule of suggested contributions under the Older Americans Act. Each older recipient shall determine what she/he is able to contribute. No older person shall be denied a service because of failure to contribute all or part of the service cost under the Older Americans Act. The Area Agency shall provide that its methods and its subcontractors' methods for receiving contributions shall be handled in a discreet manner that does not differentiate among individuals' contributions in any way.

- 2.14 COST SHARING / FEE FOR SERVICE:** The Area Agency shall adhere to the Virginia Department for the Aging Cost Sharing / Fee For Service Policy. For Title III, Older Americans Act, funded services, the Area Agency assures that it and any other service provider shall:

**2.14.1** Protect the privacy and confidentiality of each older individual with respect to the declaration or non-declaration of individual income and to any share of costs paid or unpaid by and individual;

**2.14.2** Establish appropriate procedures to safeguard and account for cost share payments;

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- 2.14.3** Use each collected cost share payment to expand the service for which such payment was given;
  - 2.14.4** Not consider assets, savings, or other property owned by an older individual in determining whether cost sharing is permitted;
  - 2.14.5** Not deny any service for which funds are received under Title III for an older individual due to the income of such individual or such individual's failure to make a cost sharing payment;
  - 2.14.6** Determine the eligibility of older individuals to cost share solely by a confidential declaration of income and with no requirement for verification; and
  - 2.14.7** Widely distribute written materials in languages reflecting the reading abilities of older individuals that describe the criteria for cost sharing and the sliding scale.
- 2.15 COST SHARING DETERMINATION (FEE SCALE):** The Area Agency shall use the most current Federal Poverty/VDA Sliding Fee Scale to determine all client fees for all services except: information and referral\assistance, outreach, benefits counseling, Older Americans Act care coordination, ombudsman, elder abuse prevention, legal assistance or other consumer protection services and congregate and home delivered meals. The Federal Poverty/VDA Sliding Fee Scale is based on the Board of Health's provisions of the "Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals", 12VAC5-200. The Area Agency may obtain a waiver from the State Agency to use an alternative Sliding Fee Scale as set forth in the Area Plan.
- 2.16 ESTABLISHMENT OR MAINTENANCE OF INFORMATION AND REFERRAL SERVICES:** The Area Agency shall ensure the establishment or maintenance of information and referral services in sufficient numbers to ensure that all older persons within the planning and service area shall have reasonable convenient access to such services. To the maximum extent possible, the Area Agency shall use the services and resources available through the local Department of Social Services for this purpose.
- 2.17 CONFIDENTIALITY:** The Area Agency shall comply with the *Government Data Collection and Dissemination Practices Act*, Virginia Code §§2.2-3800-3809. The Area Agency shall also comply with 45 C.F.R. §1321.51.

The Area Agency shall ensure that client authorization is obtained prior to entering information about an individual client into the GetCare System, unless input into the GetCare System is required for program monitoring

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by authorized federal, state or local agencies, and prior to any disclosure to other public and private providers. The Area Agency shall ensure that no individual client information shall be disclosed for any purpose without client authorization unless the disclosure is required by court order or is required for program monitoring by authorized federal, state or local agencies

The Area Agency shall comply with all applicable state and federal confidentiality laws including the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the regulations enacted thereunder, to the extent determined applicable.

**2.18 CLIENT APPEALS PROCESS:** Section 306(a)(10) of the Older Americans Act, as amended, requires Area Agencies to provide a grievance procedure for older individuals who are dissatisfied or denied services. The Area Agency shall follow the guidelines issued by the State Agency pursuant to Section 307(a)(5),(B). The Area Agency shall have such a written policy and procedure, approved by the governing board, for client appeals.

**2.19 CLIENT RECORDS:** The Area Agency will establish policies and procedures to collect client information appropriate for the services provided to each client. The State Agency through its current Service Standards, which are incorporated into this Contract, specifies the amount of information obtained from each client receiving the funded service.

The Area Agency, through its policies and procedures, will attempt to obtain and complete all of the information as required by the Services Standard.

The Area Agency is responsible for ensuring compliance with all provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, to the extent determined applicable.

The Area Agency will use the forms specified below or internally develop forms that collect, at minimum, the amount of information collected on the documents specified in the current Service Standards.

**2.19.1** Virginia Uniform Assessment Instrument (UAI) – Instructions for completing this form can be found in the “User’s Manual: Virginia Uniform Assessment Instrument (UAI)” dated July 2005.

**2.19.2** Determine Your Nutritional Health (Screening Checklist)

**2.19.3** Care Coordination Outcome Report

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**2.19.4 Virginia Service – Quick Form**

**2.19.5 Virginia Caregiver – Service Form**

**2.19.6 Federal Poverty/VDA Sliding Fee Scale**

When the Uniform Assessment Instrument (UAI) or the Virginia Service – Quick Form is required by the appropriate Service Standard, the Area Agency will apply the Federal Poverty/VDA Sliding Fee Scale to determine whether the clients meets the federal poverty definition. All information collected on the UAI, the Virginia Service – Quick Form and the Federal Poverty/VDA Sliding Fee Scale shall be entered into the

When the Uniform Assessment Instrument (UAI) or the Virginia Service – Quick Form is required by the appropriate Service Standard, the Area Agency will apply the Federal Poverty/VDA Sliding Fee Scale to determine whether the clients meets the federal poverty definition. All information collected on the UAI, the Virginia Service – Quick Form, the Federal Poverty/VDA Sliding Fee Scale, and the Determine Your Nutritional Health (Screening Checklist) shall be entered into the Advanced Information Manager software described in Section 6.26.2 below.

- 2.20 OMBUDSMAN:** If the Area Agency operates a Local Long-Term Care Ombudsman Program funded through the State Agency, the Area Agency must designate a Local Long-Term Care Ombudsman. The Local Long-Term Care Ombudsman shall obtain certification through a training and certification process conducted by the Virginia Association of Area Agencies on Aging which operates the State Long-Term Care Ombudsman Program. Any local ‘ombudsman in training’ (i.e. individual hired as local ombudsman by the Area Agency on Aging, but not yet certified by the State Long-Term Care Ombudsman) must work directly under the auspices of the State Long-Term Care Ombudsman.

If the Area Agency operates a Local Long-Term Care Ombudsman Program all individuals who access the OmbudsManager application software produced by Synergy Software Technologies, Inc. shall submit to the State Agency in advance an “Acknowledgement of Information System Access and Confidentiality” form.

**3. RESPITE CARE INITIATIVE PROGRAM PURPOSE AND REQUIREMENTS**

- 3.1 BACKGROUND:** The 1988 session of the General Assembly initiated the establishment of a statewide Respite Care Initiative Program for the elderly, and persons suffering from Alzheimer’s Disease or related

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disorders. In 2005 the State Agency awarded funds on a competitive basis to local public and private organizations through the request for proposal process. Criteria used to award grants included the locality's commitment to coordinating respite care activities with local long-term care coordinating councils, and organizations focused upon the care and treatment of Alzheimer's Disease and related disorders.

**3.2 PRINCIPLES AND GOALS:** Funded programs must operate in accord with the service standards developed by the State Agency. In addition, the Area Agency will use the following principles and goals to guide the development of their programs:

- Clients will be eligible for services on a sliding fee basis;
- The program will promote public/private partnerships;
- The program will be responsive to varying local demands;
- The most cost-effective services/forms of care will be used; and
- The program will target limited resources to those caregivers at highest risk for caregiver burden and whose family member is subsequently at highest risk for institutionalization regardless of financial resources.

**3.3 STATEMENT OF NEED:** In keeping with the principles and goals described above, funded programs must be prepared to provide services which will meet the respite needs of the broadest range of caregivers of persons sixty (60) and older and persons who have Alzheimer's Disease or related disorders in accordance with the Area Agency's most recent Respite Care Initiative Program Proposal, including the negotiated modifications to the Proposal. Grantees shall provide respite care to families or other caregivers who are providing twenty-four (24) hour care to individuals in their home who are sixty (60) years and older or are suffering from Alzheimer's Disease or related disorders. Respite care services are to be provided to improve and enhance the quality of life for families or other caregivers by providing support and relieving the emotional and physical stress of the family/caregiver and possibly delay or deter inappropriate or premature institutionalization of the care recipient. This service is not designed to meet the needs of caregivers requiring full-time or emergency respite care. Funds can be used to expand/enhance an existing community based program.

Through the Respite Care Initiative Program, a variety of models providing in-home respite care may be funded. Such models can be targeted to meet the medical and/or functional needs of the client and his or her caregiver(s) who need relief. The Program is also intended to promote the

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involvement of family members/informal caregivers, consumers, interested citizens, interest groups and local human resource agencies in the planning and delivery of services. Specifically, services must be coordinated with local human service agencies and local long-term care coordinating committees, and organizations focused upon the care and treatment of Alzheimer's Disease and related disorders, when appropriate.

**3.4 TARGET POPULATIONS:** The service shall be directed to persons sixty (60) and older and persons suffering from Alzheimer's Disease or related disorders and their caregivers, with priority given to those who are unable to purchase the service due to the financial state of the family and/or the absence of a similar service in the community.

**3.5 SERVICE CRITERIA:** The service shall be limited to intermittent, part-time care not to exceed thirty-five (35) hours per month to the family of any one client. Consistent criteria shall be used in assessing the need and scope of respite care services to individuals. Allowable services include: adult day health care services, companion services, home health services, homemaker services, hospice services, and personal care services.

**3.6 FINANCING:** Services will be financed through state general fund revenue, local resources, and client cost sharing. Since respite care will be available to all Virginians who meet the eligibility criteria, regardless of income, some clients will be in a position to pay some or all of the cost for their services. The sliding fee scale for income eligibility titled, "Federal Poverty/VDA Sliding Fee Scale" must be used to determine client cost sharing. The fee scale is incorporated into this Contract.

**3.7 REPORTING REQUIREMENTS:** A Virginia Uniform Assessment Instrument (UAI) shall be prepared for all clients receiving services in this program.

**4. OTHER PROGRAM FUNDS**

The State Agency receives and awards additional private and federal funds for specific programs to better serve the clients of Area Agencies. When funding becomes available separate awards are made for these programs.

**4.1 FAN CARE PROGRAM:** The Fan Care Program is a public-private partnership primarily sponsored by Dominion, Virginia's largest producer of energy. The program helps low-income older citizens in Virginia keep cool during summer months. Funds may be used to provide one free fan to elderly Virginians who live within Dominion's service area and who meet



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eligibility requirements or to purchase air-conditioners for clients with more serious health problems.

The State Agency administers the Fan Care Program and awards funds to the Area Agency based on the number of individuals age 60 and over in jurisdictions served by Dominion. The Area Agency must adhere to the Fan Care Program requirements available on the State Agency website at [www.vda.virginia.gov](http://www.vda.virginia.gov).

- 4.2 SENIOR FARMERS' MARKET NUTRITION PROGRAM (SFMNP):** The U.S. Department of Agriculture (USDA) – Food & Nutrition Service (FNS) awards funds to provide low-income seniors with coupons that can be exchanged for eligible foods at farmers' markets, and roadside stands.

The purposes of the Senior Farmers' Market Nutrition Program are to:

- (1) Provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' markets, and roadside stands to low-income seniors,
- (2) Increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, and roadside stands, and
- (3) Develop or aid in the development of new and additional farmers' markets, and roadside stands.

The State Agency has an approved State Plan for the Senior Farmers' Market Nutrition Program to offer the program within certain Area Agencies. The Area Agency shall provide coupons to citizens who meet the program requirements and comply with all Senior Farmers' Market Nutrition Program requirements available on the State Agency website at [www.vda.virginia.gov](http://www.vda.virginia.gov).

- 4.3 SUMMER COOLING PROGRAM:** The U.S. Department of Health and Human Services, Administration for Children and Families awards funds through the Low-Income Home Energy Assistance Program (LIHEAP). Funds are provided to the State Agency through an agreement with the Virginia Department of Social Services. The program provides limited funds to purchase cooling equipment and/or electric payments for eligible low-income elderly throughout the Commonwealth.

The State Agency administers the Summer Cooling Program and awards funds to the Area Agency based on the number of individuals age 60 and over in poverty. Each year the State Agency issues eligibility criteria and scope of work based on the requirements established by the Federal Government and the Virginia Department of Social Services. The Area Agency must adhere to the Summer Cooling Program requirements available on the State Agency website at [www.vda.virginia.gov](http://www.vda.virginia.gov).

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**5. GENERAL TERMS AND CONDITIONS**

**5.1 APPLICABLE LAWS AND COURTS:** This Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Area Agency and the State Agency are encouraged to resolve any issues in controversy arising from the award of the Contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, §2.2-4366). The Area Agency shall comply with all applicable federal, state and local laws, rules and regulations.

**5.2 ANTI-DISCRIMINATION:** By submitting its Area Plan, the Area Agency certifies to the State Agency that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act, and §2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, §2.2-4343.1E).

In every contract over Ten Thousand (\$10,000.00) Dollars the provisions of 5.2.1 and 5.2.2 below apply.

**5.2.1** During the performance of this Contract, the Area Agency agrees as follows:

**5.2.1.1** The Area Agency will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, national origin, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Area Agency. The Area Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

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**5.2.1.2** The Area Agency, in all solicitations or advertisements for employees placed by or on behalf of the Area Agency, will state that such Area Agency is an equal opportunity employer.

**5.2.1.3** Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

**5.2.2** The Area Agency will include the provisions of 5.2.1 above in every subcontract or purchase order over Ten Thousand (\$10,000.00) Dollars, and such provisions will be binding upon each subcontractor or vendor.

**5.3 ETHICS IN PUBLIC CONTRACTING:** By submitting its Area Plan, the Area Agency certifies that this Contract is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with this Contract, and that it has not conferred on any public employee having official responsibility for this contractual transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

**5.4 IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into this Contract, the Area Agency certifies that it does not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

**5.5 DEBARMENT STATUS:** By entering into this Contract, the Area Agency certifies that it is not currently debarred by the Commonwealth of Virginia from entering into contracts for the type of goods and/or services covered by this Contract, nor is it an agent of any person or entity that is currently so debarred.

**5.6 PAYMENT TO SUBCONTRACTORS:** The Area Agency is hereby obligated:

**5.6.1** To pay the subcontractor(s) within seven (7) days of the Area Agency's receipt of payment from the State Agency for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract or to notify the State

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Agency and the subcontractor(s), in writing, of the Area Agency's intention to withhold payment and the reason.

**5.6.2** To pay the subcontractor(s) interest at the rate of one (1%) percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Area Agency that remain unpaid seven (7) days following receipt of payment from the State Agency, except for amounts withheld as stated in 5.6.1 above. The date of mailing of any payment by U.S. Mail postage paid is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

**5.7 PRECEDENCE OF TERMS:** The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, PAYMENT TO SUBCONTRACTORS shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this Contract, the Special Terms and Conditions shall apply.

**5.8 QUALIFICATIONS OF CONTRACTOR:** The State Agency may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services and the Contractor shall furnish to the State Agency all such information and data for this purpose as may be requested. The State Agency reserves the right to inspect the Contractor's physical facilities prior to award to satisfy questions regarding the Contractor's capabilities. The State Agency further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Contractor fails to satisfy the State Agency that such Contractor is properly qualified to carry out the obligations of the Contract and to provide the services contemplated therein.

**5.9 TESTING AND INSPECTION:** The State Agency reserves the right to conduct any test/inspection it may deem advisable to assure services conform to the specifications.

**5.10 ASSIGNMENT OF CONTRACT:** This Contract shall not be assignable by the Area Agency in whole or in part without the written consent of the State Agency.

**5.11 DEFAULT:** In case of failure to deliver services in accordance with the Contract terms and conditions, the State Agency, after due oral or written

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notice, may procure them from other sources and hold the Area Agency responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the State Agency may have.

- 5.12 DRUG-FREE WORKPLACE:** During the performance of this Contract, the Area Agency agrees to (i) provide a drug-free workplace for the Area Agency's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensing, possession, or use of a controlled substance or marijuana is prohibited in the Area Agency's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Area Agency that the Area Agency maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over Ten Thousand (\$10,000.00) Dollars, and such provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensing, possession or use of any controlled substance or marijuana during the performance of the Contract.

- 5.13 NONDISCRIMINATION OF CONTRACTORS:** The Area Agency shall not be discriminated against in the award of this Contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the Contractor employees ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific Contract is not in its best interest. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- 5.14 AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the State Agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

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**6. SPECIAL TERMS AND CONDITIONS**

**6.1 AMENDMENT OF CONTRACT:** The Area Agency shall submit to the State Agency, for prior approval, all requests for and reasonable documentation of all necessary changes, additions or deletions in this Contract. The Area Agency shall submit a written contract amendment request, subject to approval by the State Agency and signed by both parties, if it intends to change the scope of a service, change the arrangements by which a service is delivered, (e.g., direct service or subcontracted service, the number and/or locations of congregate meal sites, transfer funds, units of service or persons served); or make any other substantive change in service delivery or expenditure of funds awarded under this Contract.

**6.1.1 State General Fund Transfer Amendments:** The State Agency shall not accept any requests to transfer state general funds between programs for the state fiscal year for which it was awarded after May 31<sup>st</sup> of the program year.

**6.1.2 Federal Fund Transfer Amendments:** The State Agency shall not accept requests to transfer federally provided funds between Titles after July 31<sup>st</sup> of the program year.

**6.1.3 Other Amendments:** The State Agency shall not accept any amendment request after September 12<sup>th</sup> of the program year.

The State Agency may, from time to time, require changes in the scope of work to be performed or the period of performance by the Area Agency through this Contract. Such changes, including any increase or decrease in the amount of funds available for the Area Agency, shall be incorporated in written amendments to this Contract according to the procedures established by the State Agency.

The State Agency shall also make other required changes; therefore, the Area Agency agrees that:

**6.1.4** Any alterations, additions or deletions to this Contract that are required by changes in federal or state statutes, regulations, executive orders and directives are automatically incorporated on the date designated by statute, regulation, executive order or directive;

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**6.1.5** The State Agency shall have the right to make unilateral contract amendments to conform to federal or state statutes, regulations, directives, executive orders, availability of funds; and

**6.1.6** The Area Agency shall notify the State Agency within five (5) working days of inability to conform to a unilateral amendment.

**6.2 AUDIT:** The Area Agency shall submit to the State Agency either an audit or an agency-wide financial review no later than December 15<sup>th</sup> of the reporting year. If the Contractor receives federal funds that meet or exceed the requirements of OMB Circular A-133, Audits for State, Local Governments and Non-Profit Organizations, the Area Agency shall ensure that an agency-wide audit is conducted at the close of each fiscal year in accordance with OMB Circular A-133. If the Area Agency receives federal funds less than the requirements of OMB Circular A-133 or if the Area Agency's fiscal year does not coincide with the federal fiscal year, the Area Agency shall submit an agency-wide financial review at the close of each federal fiscal year prepared by an independent Certified Public Accountant.

The audit or review report shall comply with OMB Circular A-87, Cost Principles for State and Local Governments or OMB Circular A-122, Cost Principles for Nonprofit Organizations.

A justifiable extension for audit submission shall be granted for no more than thirty (30) days. Submission of an audit or review report beyond a granted thirty (30) day extension or an audit or review report that does not meet specific state and federal requirements may result in withholding of payments until the audit or review report is received and found to be consistent with all requirements.

**6.3 BONDING AND INSURANCE:** In administering this Contract, the Area Agency shall observe its regular requirements and sound management practices with respect to bonding and insurance and, likewise, shall comply with related federal, state and local statutory and regulatory requirements and furnish proof of same to the State Agency when requested.

**6.4 DESIGNATION OF AREA AGENCY:** The contractual designation of the Area Agency is renewed annually, contingent upon approval of and performance on the Area Plan. OAA Section 305(b)(5)(C) requires the State Agency to establish and follow appropriate procedures to provide due process to affected parties if the State Agency initiates de-designation of an Area Agency. Accordingly, the State Agency will follow the procedures of Virginia Regulations 22VAC5-20-60 as it pertains to the approval of and performance on the Area Plan.

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After providing written notice identifying the contractual deficiencies and a reasonable opportunity for corrective action of no less than sixty (60) days, the State Agency may begin the de-designation process. This sixty (60) day period does not waive the State Agency's right for immediate suspension in an emergency situation identified in 22VAC5-20-60 D. The commencement of this process shall not relieve the Area Agency of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of de-designation.

In the event of de-designation, the Area Agency shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in the satisfactory performance of this Contract as determined by the State Agency. The Area Agency, however, shall return all unspent funds to the State Agency, as instructed by the State Agency.

**6.5 CERTIFICATION REGARDING LOBBYING:** By accepting this Contract and the funds awarded herein, the undersigned hereby certifies, to the best of his or her knowledge and belief, that:

**6.5.1** No federally appropriated funds have been or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency (as defined at 29 CFR Section 93.105), a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

**6.5.2** If any funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency (as defined in 29 CFR Section 93.105), a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

**6.5.3** The undersigned shall require that the language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.



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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Section 1352. Any person who fails to file the required certification shall be subject to a civil monetary penalty not less than Ten Thousand (\$10,000.00) Dollars and not more than One Hundred Thousand (\$100,000.00) Dollars for each such failure.

**6.6 CONFLICT OF INTERESTS:** If the Area Agency is a unit of a local governing body or a group of such bodies in a joint exercise of powers, the provisions of the State and Local Government Conflict of Interests Act, §§2.2-3100 through 2.2-3131 of the *Code of Virginia*, and the *Virginia Freedom of Information Act*, §2.2-3700 et seq. of the *Code of Virginia*, shall apply.

If the Area Agency is not a unit of a local governing body or a joint exercise of powers, no officer or member of the governing board or Board of Directors or employee of the Area Agency shall:

Be a subcontractor, grantee, or subgrantee of the Area Agency other than in his contract of employment, or be an employee, officer, or board member of a subcontractor, grantee, or subgrantee of the Area Agency. The fact any such subcontract, grant, or subgrant is awarded after competitive bidding or by negotiation shall be irrelevant; or

Have a material financial interest in a subcontract, grant or subgrant of the Area Agency, other than his contract of employment. "Material financial interest" shall include a personal and pecuniary interest accruing to the officer or member of the Area Agency governing board or Board of Directors, or employee, to his spouse or to any other person who resides in the same household. For purposes of this Contract, the ownership of an interest of three (3%) percent or more in a firm, partnership or other business, or aggregate annual income, exclusive of dividend income and interest income, of Ten Thousand (\$10,000.00) Dollars or more, from a firm, partnership or other business shall be deemed to be a material financial interest in such firm, partnership or other business; or

Be a purchaser of any sale made by the Area Agency; or

Solicit or accept money or any other thing of value, except compensation, expenses, or other remuneration paid directly to him

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or approved for him by the Area Agency for services performed within the scope of his official duties.

The specified restrictions, however, shall not be interpreted to prohibit members of City Councils or County Boards of Supervisors from being selected officially to represent their governments as member of the governing board, or Board of Directors of the Area Agency.

- 6.7 CONTINUITY OF OPERATIONS PLAN:** The Area Agency shall develop a Continuity of Operations Plan (COOP) detailing how it plans to maintain its operations in the event of a disaster. This plan must be approved by the governing board.
- 6.8 COVENANT AGAINST CONTINGENT FEES:** The Area Agency warrants that no person or selling agency or other organization has been employed to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant, the State Agency shall have the right to terminate this Contract without liability or, in its discretion, to deduct from the Contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or seek other remedies as legally may be available.
- 6.9 CRIMINAL BACKGROUND CHECKS:** The State Agency has specified within specific Service Standards optional, but recommended requirements for criminal background checks. The Area Agency is encouraged to ensure all persons providing services according to the specified service standards have current background checks performed, to the extent permitted by §19.2-392.02 of the *Code of Virginia*.
- 6.10 EXPENDITURE OF FUNDS:** The Area Agency shall not cause actual or potential annual expenditures to a particular federal or state general fund source to exceed the amount obligated from that source or cause misallocation of expenditures among fund sources for Contract activities.

The Area Agency shall assure that all costs supporting activities funded by this Contract shall be allowable, reasonable and necessary in accordance with OMB Circular A-87 Cost Principles for State, Local and Indian Tribal Governments or OMB Circular A-122, Cost Principles for Non-Profit Organizations.

Upon the discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred involving funds or property under this Contract, the Area Agency shall promptly report such information to the State Agency.

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The State Agency shall monitor state general fund expenditures at least quarterly. If the Area Agency's expenditures fall more than ten (10%) percent below the proportionate year-to-date Contract amount, without reasonable cause, either for three (3) months or more or at any time after the sixth (6<sup>th</sup>) month of the program year, the State Agency shall request that the Area Agency deobligate unspent funds for redistribution by the State Agency. The State Agency, however, reserves the right to deobligate unilaterally all or part of such unspent funds.

The Area Agency shall return any unspent state monies to the State Agency, as instructed by the State Agency, whether as part of the deobligation process or at the end of the Contract period.

The Area Agency shall use non-federal resources for this Contract at the same time and rate as corresponding federal resources as far as such use is reasonably within control of the Area Agency or its subcontractors.

The State Agency may use state general funds awarded through this Contract to match other federal programs. Therefore the Area Agency may not use state general funds to match other federal grants without prior written approval from the State Agency.

- 6.11 EXPENDITURE OF FUNDS – CARE COORDINATION:** State general funds may be used to supplement, but not supplant, current care coordination activities. The Area Agency must maintain its current level of effort in the Care Coordination for Elderly Virginians Program.

For budgeted or actual expenditures for program operation, the Area Agency should use the guideline of twenty-five (25%) percent of the total funds budgeted.

A maximum of twenty-five (25%) percent of the total funds budgeted may be used for the purpose of purchasing gap-filling services, without prior written consent of the State Agency.

The Area Agency agrees that it shall neither budget nor spend Title III, Older Americans Act funds for the Care Coordination for Elderly Virginians Program.

- 6.12 EXPENDITURE OF FUNDS – RESPITE CARE INITIATIVE PROGRAM:** Respite Care Initiative Program funds may be used to supplement, but not supplant, current respite care activities. The Area Agency must maintain its current level of effort, if any, in the Respite Care Initiative Program.

- 6.13 INDEMNIFICATION:** Area Agency, except to the extent that the Area Agency and any of its subcontractors enjoy sovereign immunity as

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agencies of a local governing body, agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from work performed under this Contract. No person performing work pursuant to this Contract shall be deemed an employee of the Commonwealth. Nothing contained herein shall be deemed an expressed or implied waiver of the sovereign immunity of the Commonwealth of Virginia.

- 6.14 INTERNET AND E-MAIL CAPABILITIES:** The Area Agency shall maintain capabilities to send and receive information through electronic mail (e-mail) over the Internet for the agency and shall provide the State Agency with the address. The Area Agency shall notify the State Agency of any changes within fourteen (14) days by submitting a new Contractor Information Form.

The Area Agency will use both virus and spyware detection software for all computers capable of interacting with VDA. Both virus and spyware applications must be updated at least weekly with new definitions.

- 6.15 INTERPRETATION OF FEDERAL REGULATIONS:** Although this is a Contract between the State Agency and the Area Agency, for purposes of interpreting federal regulations, the federal regulatory provisions for "grants" and "grantees" usually apply to the Area Agency rather than the provisions for "contracts."

- 6.16 LICENSURE/CERTIFICATION REQUIREMENTS:** The Area Agency shall assure that where state or local public jurisdictions require licensure or certification for the provision of services, agencies or individuals providing such services under this Contract shall be licensed/certified in good standing.

- 6.17 PROGRAM AND FINANCIAL COMPLIANCE REVIEW AND PROGRAM EVALUATION:** The State Agency reserves the right to monitor all administrative, programmatic, and financial activities related to this Contract to ensure compliance with the terms of this Contract. Program and Financial Compliance Reviews (PFCRs) may be accomplished through ongoing review of data submitted to the State Agency by the Area Agency and through periodic onsite review of the Area Agency's records and interviews with administrative/financial/program staff and service recipients. Access to financial records shall include records of program income and cost allocation plans. Records and staff shall be available for monitoring during business hours to authorized representatives of the AoA, the U.S. Comptroller General, State Agency or the Commonwealth of Virginia.

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The Area Agency shall monitor, at least annually, any Title III, Title VII, Care Coordination for Elderly Virginians Program, Respite Care Initiative Program and State General Fund supported administrative, programmatic and financial activities under this Contract performed by its subcontractors. The Area Agency shall ensure that all subcontracts and other purchase agreements provide for such monitoring, including access, by the Area Agency, the State Agency, and any other state authorized agents, to all subcontractor books, documents, papers, records, and staff directly pertinent to activities under this Contract.

The Area Agency shall cooperate and assist in any State Agency efforts to evaluate the performance including the effectiveness and cost of activities under this Contract. The Area Agency shall respond to the State Agency's request for additional information to evaluate performance or to address any PFCR findings. If requested, the Area Agency will submit a PFCR Corrective Action Plan by the required due date.

- 6.18 OBLIGATION OF FUNDS:** For support of work described in this Contract, subject to availability of funds, the State Agency obligates funds as specified in the Summary of Obligations, included herein as part of the Contract. The budget in the Area Agency's proposal is the approved budget for services under the terms of this Contract.

Transfers of ten (10%) percent or more into or from any category within the budget must be approved in advance by the State Agency. The Area Agency shall submit requests for approval of such transfers in writing. Transfers of ten (10%) percent or more into or from any category within the budget are not allowed in the last thirty (30) days of the Contract period.

The Area Agency can request approval by the State Agency to transfer current year federal obligations between Title III-C(1) Congregate Nutrition and Title III-C(2) Home Delivered Nutrition and between Title III-B Support Services and Title III-C Nutrition Services within the limits authorized by the Older Americans Act and transfers previously made by the State Agency. The Area Agency can request approval by the State Agency to transfer state general fund appropriations up to forty (40%) percent between service categories provided that under no circumstances shall any state general funds be transferred from direct services to administration.

- 6.19 OWNERSHIP OF INTELLECTUAL PROPERTY:** The Area Agency is prohibited from copyrighting any documents, reports, forms, databases, programs, or other materials created in the course of performing this Contract, and from obtaining any patent on these or any invention or other

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discovery resulting from its performance under the terms and conditions of this Contract.

The Commonwealth of Virginia shall retain all rights, title and interest in any and all intellectual property generated, created, or developed as a result of this Contract.

On all publications and materials designed for public distribution, the Area Agency shall include the express acknowledgement, "This publication has been created or produced by (Area Agency Name) with financial assistance, in whole or in part, from the Administration on Aging and/or the Virginia Department for the Aging."

**6.20 PERSONNEL CHANGES:** The Area Agency shall notify the State Agency of changes in program name, key personnel, addresses, telephone numbers, e-mail addresses, web site URLs and other significant administrative changes within fourteen (14) days of the change. The Area Agency will notify the State Agency by submitting a new Contractor Information Form.

**6.21 PRIME CONTRACTOR RESPONSIBILITIES:** The Area Agency shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that it may utilize, using its best skill and attention. Subcontractors who perform work under this Contract shall be responsible to the prime Contractor. The Area Agency agrees that it is as fully responsible for the acts and omissions of its subcontractors and of persons employed by them as it is for the acts and omissions of its own employees.

**6.22 PROCUREMENT:** If not subject by statute to the Virginia Public Procurement Act, §§2.2-4300 through 2.2-4377 of the *Code of Virginia*, the Area Agency shall have written policies and procedures that are consistent with, or exceed, the requirements of said Act. The Area Agency shall purchase goods and services with funds awarded under this Contract according to the applicable requirements which also include the Virginia Department for the Aging, Area Agency on Aging Minimum Best Practice Procurement Guidelines.

The Area Agency shall incorporate into any subgrant, subcontract or purchase order over Fifty Thousand (\$50,000.00) Dollars the conditions specified in the Virginia Public Procurement Act, §§2.2-4300 through 2.2-4377 of the *Code of Virginia*.

**6.23 PROGRAM IMPLEMENTATION – CARE COORDINATION:** The Area Agency agrees to abide by *Care Coordination for Elderly Virginians and Procedures Manual, January 28, 2004*.

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The Area Agency agrees to maintain an organizational separation between care coordination and any other direct/contracted services it provides.

The Area Agency shall use the Federal Poverty/VDA Sliding Fee Scale to determine client fees.

The Area Agency agrees to participate on the Care Coordination Work Group.

The Area Agency shall ensure that staff designated as Care Coordinators meet the specified Qualifications incorporated in the *Care Coordination for Elderly Virginians Policies and Procedures Manual*.

- 6.24 PUBLIC INFORMATION:** The Area Agency shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under this Contract are effectively and appropriately promulgated throughout the specified planning and service area.

The Area Agency shall make available, at reasonable times and places in the offices of the Area Agency, this Contract, all periodic reports and all policies governing the administration of programs and activities performed for this Contract for review upon request by interested persons and representatives of the media.

- 6.25 PURCHASE OF EQUIPMENT:** The Area Agency shall obtain written approval from the State Agency before purchases of equipment having an acquisition cost of Five Thousand (\$5,000.00) Dollars or more. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one (1) year. The following restrictions and requirements apply to all equipment purchases:

**6.25.1** The Area Agency shall submit requests for purchase approval to the State Agency as needed, but no later than sixty (60) days before the end of the program year.

**6.25.2** The Area Agency shall maintain an up-to-date inventory of all new equipment currently on hand from previous contracts with the State Agency and all new purchases under this Contract.

**6.25.3** The Area Agency shall maintain all equipment in good condition.

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**6.25.4** Equipment purchased with funds awarded under this Contract or previous contracts with the State Agency shall revert to the State Agency at the conclusion of the program.

**6.26 RECORDS AND REPORTS:** The Area Agency shall keep records and make reports containing information in the form required by the State Agency. The Area Agency shall maintain accounts and documents that shall permit prompt determination of the status of funds and the level of services provided under this Contract, including the disposition of all monies received from the State Agency and the nature and amount of all charges claimed against such funds.

The Area Agency shall maintain auditable records that clearly document the amount of staff time spent on Area Plan activities and tasks.

All fiscal reports are to be prepared on a modified accrual basis. If the Area Agency's accounting records are not kept on that basis, the Area Agency shall develop the necessary accrual information through analysis of pertinent documentation on hand.

The Area Agency shall retain all books, records and other documents relative to this Contract for five (5) years after the final report or until any questioned audit cost is cleared, whichever is later. The State Agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

The Area Agency agrees to include in all subcontracts or other agreements for the purchase of goods and services a provision that the Area Agency and its authorized agents shall have access to any books, documents, papers, and records of the subcontractor that are directly pertinent to that specific agreement.

The Area Agency understands and agrees to submit all reports accurately and on time. The State Agency may withhold or delay payment if the Area Agency is delinquent in submitting any required reports or data especially those listed below. Additionally, a delinquent Aging Monthly Report may not be processed for reimbursement until the following month.

**6.26.1 Aging Monthly Report (AMR):** The Area Agency shall submit a monthly financial and program report and cash request using the State Agency's Aging Monthly Report (AMR) along with other forms and reports established and required in accordance with instructions issued by the State Agency by the twelfth (12<sup>th</sup>) day of the second (2<sup>nd</sup>) and each succeeding month of the Contract period. If the twelfth (12<sup>th</sup>) day is not a state business day, reports will be accepted on the next workday.



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The Area Agency shall submit an Aging Monthly Report even if no reimbursement is requested. The data elements listed should be reported on a monthly basis that will allow for annual, non-duplicated totals and percentages.

**6.26.2 Advanced Information Manager (AIM):** The Area Agency shall submit accurate interim and final client level and service data appropriate with each Service Standard in a format defined by the State Agency using the AIM software produced by the Saber Corporation.

The Area Agency must maintain an AIM server. An AIM server is defined as an Intel based computer physically holding the AIM data with a dedicated internet connection. The minimum internet connection shall be a Digital Subscriber Line (DSL) connection. The minimum server and client CPU speed shall be no less than 1.4GHz. The operating system must be Windows 2000, Windows 2003 or Windows XP. The Area Agency shall maintain annual maintenance agreements with the Saber Corporation for the seats of AIM that it uses.

The Area Agency shall submit accurate data on the preceding month's activities by the thirtieth (30<sup>th</sup>) day of the second (2<sup>nd</sup>) and each succeeding month of the Contract period. If the thirtieth (30<sup>th</sup>) day is not a state business day, data shall be submitted on the next workday. The Area Agency shall submit accurate final data no later than thirty (30) days after the Contract period.

The Area Agency shall create a complete backup of the AIM database at least monthly. The Area Agency is required to conduct a test at least semi-annually of the completeness of the backup. The backup shall be stored in a secure environment.

**6.26.3 GetCare / RTZ Associates, Inc.:** RTZ Associates, Inc., a California based company hosts the GetCare web based system. No Wrong Door pilot agencies may use the GetCare Tools to submit accurate interim and final client level and service data appropriate with each Service Standard. Client and service data shall be entered into the GetCare Tools in accordance with the reporting requirements of 6.26.2 above.

**6.26.4 OmbudsManager:** Synergy Software Technologies, Inc., a Vermont based company hosts the OmbudsManager web based system. The Area Agency shall enter accurate Ombudsman complaint and program data as specified in the *'Virginia Long-Term*

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*Care Ombudsman Program Policies and Procedures Manual* and as defined by the State Agency into the OmbudsManager software.

The Area Agency must maintain a personnel computer that has access to the internet capable of connecting to AgingNetwork.com. The minimum internet connection shall be a Digital Subscriber Line (DSL) connection.

The Area Agency shall ensure accurate data on the preceding month's activities is entered by the thirtieth (30<sup>th</sup>) day of the second (2<sup>nd</sup>) and each succeeding month of the Contract period. If the thirtieth (30<sup>th</sup>) day is not a state business day, data shall be entered no later than the next workday. The Area Agency shall ensure accurate final data is entered no later than thirty (30) days after the Contract period.

**6.26.5 Unmet Demand For Services:** The Area Agency shall submit by the twelfth (12<sup>th</sup>) of the month after the end of the reporting quarter the Unmet Demand For Services Report. The reporting periods as specified on the report form are January, April, July and October for the preceding quarter.

**6.26.6 National Aging Program Information System Annual Summary Report:** Annually, the State Agency will collect Area Agency summary information for the National Aging Program Information System (NAPIS). The Area Agency will comply with submitting the requested information.

**6.26.7 Final (13<sup>th</sup> Month) Report and Schedules A, B, & C:** The Area Agency shall ensure that an orderly and prompt closeout of the Contract is completed not more than forty-five (45) days after the end of the Contract period, in accordance with instructions issued by the State Agency.

**6.27 REIMBURSEMENT:** Subject to availability of funds, the State Agency agrees to reimburse the Area Agency for expenditures up to and not exceeding the maximum amount provided under this Contract, as set forth in the Summary of Obligations. The Area Agency shall be advanced the lesser of one-twelfth (1/12<sup>th</sup>) of the Contract amount or the Area Agency's projected needs for thirty (30) days in state general funds and the lesser of one-sixth (1/6<sup>th</sup>) of the Contract amount or the Area Agency's projected needs for sixty (60) days in federal funds.

Requests for reimbursement will be determined by information provided on the Aging Monthly Report as specified in 6.26.1 above or in accordance with instructions issued by the State Agency.

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Payment will be bound by the approved budget referenced in 6.18 above, as presented, which shall be strictly construed.

The State Agency reserves the right to disallow costs and/or withhold payment if the Area Agency fails to comply with statutes, regulations, policies, procedures, or other directives applicable to this Contract.

The State Agency reserves the right to modify or add reimbursement policies, as appropriate, to assure compliance with statutes, regulations, policies, procedures, or other directives applicable to this Contract.

The Area Agency shall submit its final request for state general funds by June 12<sup>th</sup> and shall obligate all such funds by June 30<sup>th</sup> of the reporting year. Funds shall be liquidated by September 30<sup>th</sup> of the reporting year or unspent state general funds will be returned to the State Agency.

**6.28 SEVERABILITY:** Each paragraph and provision of this Contract is severable from the entire Contract; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

**6.29 SMALL, WOMEN, AND MINORITY-OWNED BUSINESSES  
SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:** Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Area Agency is encouraged to offer such business to Small, Women, And/or Minority owned (SWAM) businesses. If SWAM subcontractors are used, the prime contractor agrees to report the use of SWAM subcontractors by providing the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, category type (small, women, or minority-owned), and type of product/service provided.

**6.30 SUBCONTRACTORS:** The Area Agency shall require that all applicable provisions and requirements of this Contract, including the provisions of 2.11 above, shall be applied to and included in any contractual agreements with any subcontractor of Title III, Title VII, Care Coordination for Elderly Virginians Program, Respite Care Initiative Program and State General Fund supported activities.

Older Americans Act Section 212(a) and (b) requires the State Agency to approve all contracts with for profit entities that provides services to individuals. The Area Agency shall submit relevant documents including: the agreement, information on all costs incurred, costs incurred by the recipient, and that the rates are consistent with the prevailing market rate.

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All Area Agency subcontracts for client Elder Abuse Prevention or Legal Assistance shall require the subcontractor to provide the Area Agency with at minimum a unique client identifier and demographic information along with date and units of service.

- 6.31 TOLL-FREE TELEPHONE NUMBER:** The Area Agency shall maintain and publicize a customer-oriented and user-friendly toll-free telephone number. In a planning and service area where a toll-free telephone number is not practical or all areas of the planning and service area may directly contact the main Area Agency office from any region in the planning and service area through a local telephone number, an exemption to this requirement may be requested in writing from the State Agency.

**IN WITNESS WHEREOF,** the parties have caused this Contract to be duly executed, intending to be bound thereby.

**STATE AGENCY:**

**AREA AGENCY:**

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**Julie Christopher  
Commissioner**

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**Signature of Authorized Official**

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**Title of Authorized Official**

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**Date Signed**

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**Date Signed**

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, §2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.